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**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/317,303	05/24/99	DONOH	B DONO-7

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PM82/0731

EXAMINER

LAVINDER, J

ART UNIT	PAPER NUMBER
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3644

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DATE MAILED: 07/31/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Advisory Action**

Application No.

09/317,303

Examiner

Jack W Lavinder

Applicant(s)

DONOHO, BRUCE A.

Art Unit

3644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 July 2000 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either a timely filed amendment which places the application in condition for allowance or a Notice of Appeal. Alternatively, applicant may obtain further examination by timely filling a request for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d).

**PERIOD FOR REPLY** [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136 (a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked.

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (see NOTE below);
  - (b) ☐ they raise the issue of new matter. (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

4. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
5. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 3-6, 8, 9.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.
9. ☐ The proposed drawing correction filed on \_\_\_\_\_ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
11. ☐ Other: \_\_\_\_\_.

Jack W Lavinder  
Primary Examiner  
Art Unit: 3644

7.27-00

Continuation of 6. does NOT place the application in condition for allowance because: The request to withdraw the finality of the office action mailed on 4-17-00 is denied. The applicant alleges that the examiner has ignored the limitation of "one cutting groove" in claim 9 because he (the examiner) believes that this limitation adds new matter to the specification. The applicant states that "the base comprehends rail 15". Thus, the addition of the notch in the rail is not adding new matter to the specification. The applicants argument is not tenable. The limitations in the claim are directed to the base member having at least one cutting groove. The new matter rejection was directed at the drawings because the drawings and the notch to the rail and not to the base. The applicant would have us believe that the base comprehends the rail. Yet, the specification defines the rail separately from the base. The specification states that "the base member 12 provides a rail 15." The figures show the base as a member, which supports the rail 15. The specification than states that "A notch 19 provides a convenient cutting line at various locations along the base member 12." The phrase along the base indicates that the notch is on the base and not on the rail. Disregarding the new matter issues, the examiner still issued a proper final rejection. The examiner considered all the limitations in the claims. The limitation to " one cutting groove" was not specifically recited in the rejection because it is clear from viewing the reference that Shaw has a cutting groove. The element 30 is the cutting groove in Shaw. Thus, the rejection is proper and was made in response to applicant new claim 9 and the new issues presented by claim 9.